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Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Federal Communications Commission
Office of Secretary

Re: Request for further information regarding IB Dockets 03-38, 02-324, 96-261

Dear Ms. Dortch:

This letter is submitted on behalf of our client, International Access, Inc. d/b/a Access International ("Access") in response to a letter dated February 23, 2005 sent to Access by Mr. James Ball, Chief, Policy Division, International Bureau, in the above-captioned dockets. Mr. Ball's letter propounded a series of questions to Access. Access's responses to those questions are as follows:

1. Since March 2003, has Access entered into a settlement arrangement with the Philippine Long Distance Telephone Company ("PLDT")? If so, is this arrangement an interim arrangement?

No. Access has not entered into a settlement arrangement with PLDT since March 2003, although it has attempted on several occasions to do so.

2. Since March 2003, has PLDT or any Philippine carrier ever demanded a rate that is above the current benchmark rate (\$0.19) for the U.S. – Philippine route?

No.

3. How many minutes of traffic did Access and its affiliates terminate in the Philippines in 2003? In 2004?

2003 - 155,027,595

2004 - 188,245,375

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4. In its Reply Comments (filed July 13, 2004 page 6), PLDT references a “several-year old contract dispute between PLDT and Access.” Does such a dispute exist and if so, what is the nature of the dispute? Has it been resolved? If not, will the Commission’s decision regarding removal of the ISP from the U.S. – Philippines route have any bearing on resolution of this dispute?

The dispute between PLDT and Access which was referenced in PLDT’s reply comments remains unresolved. While that dispute is a private dispute between the two companies, underlying the dispute are issues which are germane to the Commission’s ISP, including nondiscriminatory treatment of U.S. carriers, as well as an apparent pattern anticompetitive behavior such as overbilling of minutes of use, overstating call durations, and billing for unmade calls. In addition, PLDT has refused to allow Access to utilize toll-free numbers to originate outbound international calls from the Philippines, notwithstanding the fact that PLDT makes such toll free access available to its own customers. Access’s efforts to negotiate an amicable resolution of its dispute with PLDT have failed.

5. Has Access responded to the letter (submitted as Attachment B to Access Comments) sent from PLDT to Access, offering to enter into arrangements similar to those reached by other U.S. carriers for termination on the U.S.- Philippines route?

Yes. Following receipt of that letter, Access, by its president, William Wade, and through local contacts in the Philippines, approached PLDT for the purpose of entering into settlement arrangements like those agreed upon between PLDT and other U.S. carriers. Of course, since those “interim” arrangements are not publicly-available, Access has no way of knowing how any PLDT settlement proposal compares with those between PLDT and other U.S. carriers. PLDT refused to deal directly with Access. Instead, PLDT instructed Access to contact PLDT’s affiliated company, PLDT Global. Access contacted PLDT Global as it was directed to do by PLDT. PLDT Global never responded.

6. If the Commission were to maintain the ISP on the U.S. – Philippines route would competition be enhanced among U.S. and Philippine carriers in a manner that would benefit U.S. consumers? Would it be possible that U.S. carrier’s termination costs would increase beyond the currently-negotiated rates?

Based upon conduct which has occurred regarding the U.S. – Philippines route, it seems unlikely that removal of that route from the ISP would enhance competition in a manner which would benefit U.S. consumers. In January 2003, the Commission’s International Bureau deemed it necessary to issue a “stop payment” order upon learning that PLDT and other Philippine carriers were refusing to terminate U.S.-originated traffic until U.S. carriers acceded to Philippine demands to increase settlement payments by not less than fifty percent. Curiously, on the same day that PLDT – the dominant carrier – made that unilateral decision, the other Philippine carriers followed suit raising their settlement rates by the identical fifty percent. It is difficult to imagine a more egregious example of anticompetitive behavior than the conduct engaged in by PLDT during that period. In fact, the Commission identified such conduct as an example of anticompetitive behavior which would warrant Commission intervention. In International Settlements Policy Reform et al., 19 FCC Rcd

Ms. Marlene Dortch

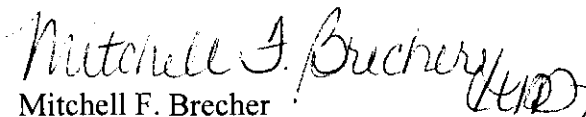
March 11, 2005

Page 3

5709 (2004), the Commission identified certain types of behavior which it would regard as indicia of potential anticompetitive conduct. These include establishment of rate floors even if below benchmarks that are above previously-negotiated rates, and threatening or carrying out circuit disruptions in order to achieve rate increases. (International Settlements Policy Reform at ¶ 44). Although PLDT eventually stopped blocking of traffic, it did so only after extracting commitments from U.S. carriers to agree to higher termination rates than those which had been in effect prior to the blocking which led to the Stop Payment Order. While those rates may be below the \$0.19 benchmark rate, they are higher than the prior rates. Given PLDT's history of engaging in conduct deemed by the Commission to be anticompetitive for the express purpose of obtaining increases in termination rates, it is difficult to see how competition or U.S. consumer welfare can be enhanced by removal of the Philippines from the ISP. Such removal would give PLDT even greater latitude than it already enjoys to discriminate among U.S. carriers and to demand settlement price increases ultimately borne by U.S. consumers. Its course of conduct in recent years amply demonstrates that it already has ample incentive to engage in such conduct.

If you have questions about this response or if you would like additional information, please communicate directly with undersigned counsel for Access.

Sincerely,


Mitchell F. Brecher

cc: Mr. James Ball
Ms. Kimberly Cook
Mr. Mark Uretsky
Ms. Claudia Fox

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